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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/987,410 12/09/97 RIDER

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EXAMINER

HM22/0204

ERIC L PRAHL  
FISH & RICHARDSON  
225 FRANKLIN STREET  
BOSTON MA 02110-2804

CHIN, C

ART UNIT PAPER NUMBER

1641 9

DATE MAILED:

02/04/99

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

Responsive to communication(s) filed on 10/29/98  
 This action is FINAL.  
 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1 - 22 is/are pending in the application.  
Of the above, claim(s) 9 - 20 is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 1-8 & 21-22 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claims 1 - 22 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of Reference Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election without traverse of Group I - claims 1-8 and 21-22 in Paper No. 8 is acknowledged.

### ***Drawings***

2. The drawings are objected to for the reasons set forth in the attached PTO-948. Correction is required.

### ***Claim Rejections - 35 U.S.C. § 112***

3. Claims 1-8 and 21-22 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the use of B-cells, does not reasonably provide enablement for the use of cells in general. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

The specification is not enabling for the use of any cells in the device of claims 1 and 5. Claims 1 and 5 broadly recite the use of any cell in the claimed device. However, the specification only teaches the use of B-cells in the claimed device, see page 1 of the instant specification. B-cells are the only cells taught by the specification that are capable of expressing antibodies on their

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surface which can bind to a corresponding antigen and produce increased levels of calcium in response to antigen binding to the antibodies. Claims 1 and 5 broadly encompass the use of cells, such as epithelial or somatic cells, which do not express antibodies on their surface nor produce elevated levels of calcium in response to an antigen-antibody binding event.

The specification is also not enabling for the method of claims 21 and 22 since the claimed method utilizes the device of claims 1 or 5.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague and indefinite. The claim does not set forth how each of the components are structurally related to each other.

Claim 2 is vague because it does not set forth how the covering is related to the other components of the claimed device. The claim is also not clear as to how a covering can support a liquid medium.

Claims 4 and 8 are vague as to how the housing is related to the other components of the claimed device.

Claim 5 is vague and confusing as it is not clear as to how an optical detector can be "affixed to" a liquid medium as recited in the last line of the claim.

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Claim 6 is vague as it is not clear as to how a covering can support a liquid medium when the covering is over the liquid medium.

*Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Chin whose telephone number is (703) 308-3991. The examiner can normally be reached on Monday-Thursday from 8:30 am to 6:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

cchin/cc  
January 31, 1999

*Christopher L. Chin*  
CHRISTOPHER L. CHIN  
PRIMARY EXAMINER  
GROUP 1800